IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A. No. 56 of 2007
DATE OF DECISION: 7.9.2007

Commissioner of Central Excise, Delhi-III

…Appellant

Versus

M/s Sun Vacuum Former Pvt. Ltd.

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Sanjeev Kaushik, Advocate,
for the appellant-revenue.

JUDGMENT

M.M. KUMAR, J.

This appeal filed by the appellant-revenue under Section 35G of the Central Excise Act, 1944 (for brevity, 'the Act'), challenges order dated 27.11.2006, passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (for brevity, 'the Tribunal). It has been claimed that the following question of law would arise for determination of this Court:-

> Whether penalty under Section 11AC, is liable to be imposed on the assessee, equal to the amount of duty confirmed under Section 11A and interest under Section 11AB can be levied in the present case, on merits, which

fall under the purview of explanation to Sub-section (2B) of Section 11A of the Central Excise Act, 1944, where duty has been deposited before issue of show cause notice?

After hearing learned counsel for the appellant and perusing the record we find that the matter is not *res integra*, inasmuch as, we have already decided similar appeals against the revenue and in favour of the assessee in the cases of **Commissioner of Central Excise, Ludhiana v. M/s Omkar Steel Tubes (P) Ltd. (C.E.A. No. 5 of 2007, decided on 28.8.2007)** and **Commissioner of Central Excise, Ludhiana v. M/s Crop Chemical India Ltd. and another (C.E.A. No. 6 of 2007, decided on 31.8.2007)**.

In view of the above, instant appeal fails and the same is dismissed in terms of the aforementioned judgments.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

September 7, 2007
Pkapoor